

000803

COMMITTEE ACTION SHEET

105
11/18

COUNCIL DOCKET OF

NOV 18, 2008

☐ Supplemental ☐ Adoption ☐ Consent ☒ Unanimous Consent Rules Committee Consultant Review

R -

O -

Agreement with UC Regents – UCSD for La Jolla Shores ASBS Dry Weather Flow and Pollution Control Program

☒ Reviewed ☐ Initiated By NR&C On 10/15/08 Item No. 13

RECOMMENDATION TO:

Approve.

VOTED YEA: Frye, Faulconer, Peters, Atkins

VOTED NAY:

NOT PRESENT:

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

INDEPENDENT BUDGET ANALYST NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Storm Water Department's October 15, 2008, Executive Summary Sheet; Storm Water Department's October 15, 2008, PowerPoint

COUNCIL COMMITTEE CONSULTANT



000805

EXECUTIVE SUMMARY SHEET CITY OF SAN DIEGO

DATE ISSUED: October 15, 2008 REPORT NO:
 ATTENTION: Natural Resources and Culture Committee
 ORIGINATING DEPARTMENT: Storm Water Department
 SUBJECT: Agreement with UC Regents – UCSD for La Jolla Shores
 ASBS Dry Weather Flow and Pollution Control Program
 COUNCIL DISTRICT(S): District 1
 CONTACT/PHONE NUMBER: Stephanie Bracci 858/541-4314

REQUESTED ACTION: Authorize the Mayor or designee, to enter into an agreement for \$875,000; request reimbursement and accept funds from the UC Regents-University of California, San Diego for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program in an amount not to exceed \$700,000; expend \$175,000 in matching funds available in CIP Fund 630221, CIP # 12-160.0; and authorize the Mayor, or designee, to conduct all negotiations, execute agreements, and submit all documents including but not limited to amendments and payment requests, which may be necessary for the completion of the project.

STAFF RECOMMENDATION: Adopt the resolution.

EXECUTIVE SUMMARY: The California State Water Resources Control Board (SWRCB) has established 34 Areas of Special Biological Significance (ASBS) off of the California coast. Two adjacent ASBS exist within the jurisdiction of the City of San Diego (City): ASBS No. 31 (the San Diego Marine Life Refuge at the Scripps Institution of Oceanography) and ASBS No. 29 (the San Diego-La Jolla Ecological Reserve off the coast of La Jolla Shores). The discharge of constituents or “wastes” contained within storm water discharges into the ASBS is prohibited by the California Ocean Plan. However, the Ocean Plan allows jurisdictions to apply to the SWRCB for exceptions to the prohibition if certain conditions are met. The exception is anticipated to prohibit the discharge of dry weather coastal flows into the ASBS.

The City applied to the SWRCB for its exception for ASBS No. 29 in May 2006. While awaiting approval of the exception, the City has been working towards the execution of a three-step program designed to reduce impacts to the receiving waters of both ASBS Nos. 29 and 31. The three steps are: formulation of a management plan; execution of a monitoring program; and implementation of Best Management Practices (BMPs).

In October, 2005, the City partnered with UC Regents-USCD to receive an Integrated Coastal Watershed Management Planning Grant from the State of California which resulted in the preparation of the *La Jolla Shores Coastal Watershed Management Plan* for the ASBS drainage area. City Council voted in June 2008 to adopt the plan. The BMPs per the management plan include the implementation of dry weather diversions at over 90% of the drainage area collected and discharge out of the municipal storm drain outfalls to the ASBS.

The City has been phasing in a low flow storm drain diversion system to serve the Pacific Ocean coast of the La Jolla, Pacific Beach, Ocean Beach, and Mission Bay areas. Phases I and II in the Mission Bay and La Jolla areas have been completed using grant monies from the Environmental Protection Agency. Phase III is nearly complete. Phase III will include a total of 11 locations from La Jolla Point to Ocean Beach.

The fourth phase focuses on the La Jolla ASBS to address the prohibition of dry weather flows under the Ocean Plan Exception Process. Four low flow coastal diversions are planned for this fourth phase. The UC Regents – UCSD applied to the State Board for a second grant under this Consolidated Grant program (Proposition 50) for multiple structural control projects including low flow diversions. City staff coordinated

000806



City of San Diego

**Agreement with UC Regents-
UCSD for La Jolla Shores ASBS
Dry Weather Flow and
Pollution Control Program**

Natural Resources and Culture Committee
October 15, 2008

1

Actions Requested

Authorization to:

- Enter into agreement, request reimbursement, and accept funds from UC Regents-UCSD in an amount not to exceed \$700,000, and expend \$175,000 in matching funds
- Conduct all negotiations, execute agreements, and submit all documents for the project

2

La Jolla Shores Coastal Watershed Management Group

- Members:
 - ✓ City of San Diego
 - ✓ UCSD/SIO
 - ✓ San Diego Coastkeeper
- City Council adopted June 2008
- Now in implementation phase:
 - La Jolla Shores ASBS Dry Weather Flow and Pollution Control Program
 - Kellogg Park
 - Aggressive Street Sweeping



5

La Jolla Shores ASBS Dry Weather Flow and Pollution Control Program

- Agreement would partially fund 3 dry weather diversions in La Jolla Shores
- Diversions address ASBS dry weather requirements
- Diversions part of City's coastal dry weather diversion program
- Current cost estimate for 3 diversions: \$1,450,000

Agreement Terms:

City Match:	\$175,000
Funding via agreement:	\$700,000
Total:	\$875,000

6

000809

DOCKET SUPPORTING INFORMATION

CITY OF SAN DIEGO

EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE:

105

11/18

July 18, 2008

SUBJECT: Agreement with UC Regents – UCSD for La Jolla ASBS Dry Weather Flow and Pollution Control Grant Program

GENERAL CONTRACT INFORMATION

Recommended Consultant: UC Regents-University of California

\$700,000.00 (Reimbursable Under the Agreement).

\$175,000.00 (Matching Funds)

Amount of this Action: \$875,000.00

SUBCONSULTANT PARTICIPATION

There is no subconsultant activity associated with this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity Required:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

ADDITIONAL COMMENTS

This action is to enter into an agreement, and accept funds from the UC Regents-University of California, San Diego for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program.


by MM-J

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER 11/18

(FOR AUDITOR'S USE)

2900285

TO:

CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):

Storm Water Department

3. DATE:

August 1, 2008

4. SUBJECT:

Agreement with UC Regents – UCSD for La Jolla ASBS Dry Weather Flow and Pollution Control Grant Program

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)

Stephanie Bracci, 619/525-8649; MS 27A

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)

Ave Maria Perkins, 619/525-8624, MS27A

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	630221				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	30244				Subcontract Award: \$700,000
ORGANIZATION	101				City Match: \$175,000
OBJECT ACCOUNT	4279				Agreement Total: \$875,000
JOB ORDER	121600				
C.I.P. NUMBER	12-160.0				
AMOUNT	\$175,000.00				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT.	<i>Tony Leuninger</i>	8/12/08	8	DEPUTY CHIEF	<i>[Signature]</i>	10/13/08
2	E.O.C.	<i>[Signature]</i>	8/19/08	9	C.O.O.	<i>[Signature]</i>	10/13/08
3	E.A.S.	<i>Allison Sherwood</i>	8/21/08	10	CITY ATTORNEY	<i>Philip M. Dattilo</i>	10-15-08
4	LIAISON OFFICE	<i>[Signature]</i>	9/2/08	11	ORIG. DEPT.	<i>Tony Leuninger</i>	10/17/08
5	F.M.	<i>[Signature]</i>	9/26/08		DOCKET COORD:		
6	AUDITOR	<i>Rob Ruscetti</i>	10/7/08		COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	
7					<input type="checkbox"/> REFER TO:	COUNCIL DATE: 11/18/08	

11. PREPARATION OF:

☒ RESOLUTIONS☐ ORDINANCE(S)☒ AGREEMENT(S)☐ DEED(S)

1. Authorize the Mayor, or designee, to enter into an agreement for \$875,000, request reimbursement and accept funds from the UC Regents-University of California, San Diego for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program, and expend an amount not to exceed \$700,000 contingent upon receipt of a fully executed grant agreement; and use \$175,000 for matching funds available in CIP Fund 630221, CIP # 12-160.0; and

2. Authorize the Mayor, or designee, to conduct all negotiations, execute agreements, and submit all documents including, but not limited to amendments and payment requests, which may be necessary for the completion of the project.

11A. STAFF RECOMMENDATIONS:

Approve the Resolution.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): District 1.

COMMUNITY AREA(S): La Jolla Shores Community.

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3). However, the Capital Project for which these funds would be used will be subject to future CEQA review.

ATTACHMENTS: Executive Summary; Subaward Agreement with UCSD and associated attachments (6 copies)

CITY CLERK INSTRUCTIONS: Forward two copies of the executed subaward agreement and resolution to Stephanie Bracci at MS27A

**EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE ISSUED: August 11, 2008 REPORT NO:
 ATTENTION: Council President and City Council
 ORIGINATING DEPARTMENT: Storm Water Department
 SUBJECT: Agreement with UC Regents – UCSD for La Jolla Shores
 ASBS Dry Weather Flow and Pollution Control Program
 COUNCIL DISTRICT(S): District 1
 CONTACT/PHONE NUMBER: Stephanie Bracci 619/525-8649

REQUESTED ACTION: Authorize the Mayor or designee, to enter into an agreement for \$875,000; request reimbursement and accept funds from the UC Regents-University of California, San Diego for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program in an amount not to exceed \$700,000; and authorize the Mayor, or designee, to conduct all negotiations, execute agreements, and submit all documents including but not limited to amendments and payment requests, which may be necessary for the completion of the project.

STAFF RECOMMENDATION: Adopt the resolution.

EXECUTIVE SUMMARY: The California State Water Resources Control Board (SWRCB) has established 34 Areas of Special Biological Significance (ASBS) off of the California coast. Two adjacent ASBS exist within the jurisdiction of the City of San Diego (City): ASBS No. 31 (the San Diego Marine Life Refuge at the Scripps Institution of Oceanography) and ASBS No. 29 (the San Diego-La Jolla Ecological Reserve off the coast of La Jolla Shores). The discharge of constituents or “wastes” contained within storm water discharges into the ASBS is prohibited by the California Ocean Plan. However, the Ocean Plan allows jurisdictions to apply to the SWRCB for exceptions to the prohibition if certain conditions are met. The exception is anticipated to prohibit the discharge of dry weather coastal flows into the ASBS.

The City applied to the SWRCB for its exception for ASBS No. 29 in May 2006. While awaiting approval of the exception, the City is working towards the execution of a three-step program designed to reduce impacts to the receiving waters of both ASBS Nos. 29 and 31. The three steps are: formulation of a management plan; execution of a monitoring program; and implementation of Best Management Practices (BMPs).

In October, 2005, the City partnered with UC Regents-USCD to receive an Integrated Coastal Watershed Management Planning Grant from the State of California which resulted in the preparation of the *La Jolla Shores Coastal Watershed Management Plan* for the ASBS drainage area. City Council voted in June 2008 to adopt the plan. The BMPs per the management plan include the implementation of dry weather diversions at over 90% of the drainage area collected and discharge out of the municipal storm drain outfalls to the ASBS.

The City has been installing in phases a low flow storm drain diversion system to serve the Pacific Ocean coast of the La Jolla, Pacific Beach, and Ocean Beach areas. Phases I and II have been completed using grant monies from the Environmental Protection Agency. Phase III is nearly complete. Phase III will include a total of 11 locations from La Jolla Point to Ocean Beach.

The fourth phase focuses on the La Jolla ASBS to address the prohibition of dry weather flows under the Ocean Plan Exception Process. Four low flow coastal diversions are planned for this fourth phase. The UC Regents – UCSD applied to the State Board for a second grant under this Consolidated Grant program (Proposition 50) for multiple structural control projects including low flow diversions. City staff coordinated with UC Regents-USCD for the City to be a subcontractor on this grant for the implementation of three low

flow diversions. The City's requested funds under this grant program include the installation of three of the four coastal dry weather diversions; the fourth is funded under an Environmental Protection Agency grant.

Partnering with UC Regents-UCSD allows for greater efficiency and additional grant funding opportunities for projects in the ASBS.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS: On June 5, 2007, the General Services Department, Storm Water Pollution Prevention Division Operating Fund transferred \$920,000 to the Engineering and Capital Projects Department which included \$745,000 to assist in the completion of these three Coastal Low Flow Diversions and one US Environmental Protection Agency (EPA) grant Coastal Low Flow Diversion.

This agreement with UC Regents-UCSD is for \$875,000 for construction of three Coastal Low Flow Diversions; \$700,000 is reimbursable under the agreement and \$175,000 fulfills the requirement for matching costs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: On June 5, 2007, the General Services Department, Storm Water Pollution Prevention Division Operating Fund transferred \$920,000 to the Engineering and Capital Projects Department which included \$745,000 to assist in the completion of these three Coastal Low Flow Diversions and one US Environmental Protection Agency (EPA) grant Coastal Low Flow Diversion.

On June 19, 2006, Council approved the acceptance and expenditure of grant funds for the Integrated Watershed Management Plan grant, Resolution 301543.


On June 17, 2008, Council voted to adopt the La Jolla Shores Coastal Watershed Management Plan


This action was approved by NR&C on 10/15/08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On May 9, 2007, the grant concept was presented to the La Jolla Shores Association by UCSD, San Diego Coastkeeper, Storm Water Pollution Prevention Division and the City's consultant Weston Solutions. This meeting was attended by approximately 25 citizens. A public workshop was held on July 30, 2008 for community input on the design of the low flow diversions. Two community members attended, representing two groups. City staff will continue to involve community members and all other affected City departments and agencies involved with this project.

KEY STAKEHOLDERS: La Jolla Shores community, UC Regents-UCSD, Scripps Institute of Oceanography, San Diego Coastkeeper, and State Water Resources Control Board.

PROJECTED IMPACTS: The approval of this action will allow the City to continue the project design with community outreach, and construction of improvements to address ASBS requirements.


 Tony Heinrichs
 Storm Water Department Director


 David Jarrell
 Deputy Chief of Public Works

000815

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 2900285
 ORIGINATING DEPT. NO.: 446

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$175,000.00 Fund: 630221

Purpose: To authorize the grant matching funds for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program from an agreement with UC Regents-University of California, San Diego. CIP 12-160.0

Date: October 7, 2008

By: Rob Ruscitto *Rob Ruscitto*

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0		30244	101	4279	121600		630221		\$175,000.00
TOTAL AMOUNT										\$175,000.00

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____

By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION AUTHORIZING THE AGREEMENT WITH
UC REGENTS – UCSD FOR THE LA JOLLA ASBS DRY
WEATHER FLOW POLLUTION CONTROL GRANT
PROGRAM.

BE IT RESOLVED, by the Council of the City of San Diego that the Mayor or his designee is authorized to execute, for and on behalf of the City, an agreement with UC Regents – University of California, San Diego for the La Jolla Shores ASBS Dry Weather Flow & Pollution Control Program [Project], under the terms and conditions set forth in the Agreement, on file in the office of the City Clerk as Document No. RR-_____.

BE IT FURTHER RESOLVED, that the City Comptroller is authorized to expend an amount not to exceed \$700,000 contingent upon receipt of a fully executed grant agreement; and use \$175,000 for matching funds available in CIP No. 12-160.0, Fund No. 630221.

BE IT FURTHER RESOLVED, that the Mayor or his designee is authorized to conduct all negotiations, execute agreements, and submit all documents including, but not limited to amendments and payment requests, which may be necessary for the completion of the Project.

BE IT FURTHER RESOLVED, that this activity is not a “project” and is therefore not subject to California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15060 (c)(3). However, the Capital Project for which these funds would be used will be subject to future CEQA review.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Frederick M. Ortlieb
Frederick M. Ortlieb
Deputy City Attorney

FMO:sc
10/15/08
Aud.Cert.: AC2900285
Or.Dept: Storm Water
R-2009-476

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

SUBAWARD AGREEMENT
Agreement 0001

This Subaward Agreement ("Subaward") is executed by and between The Regents of the University of California, University of California, San Diego, a public corporation of the State of California (hereinafter referred to as "University"), and the City of San Diego (hereinafter referred to as "Subrecipient") on this 26 day of September, 2008.

WHEREAS, on or about January 1, 2007, the State Water Resources Control Board (the "State") entered into a grant agreement with the University whereby the State agreed to provide a grant to the University for the purpose of implementing Best Management Practices (BMPs) that include pollution prevention measures, treatment controls, dry weather flow diversions, and site controls to eliminate non-storm water discharges, reduce the loading of pollutants of concern, improve water quality, and protect valuable ocean resources within the La Jolla Shores Area of Special Biological Significance ("ASBS"), all as more particularly described in the Grant Agreement No. 06-072-559-0, attached hereto as Attachment 1 ("Grant Agreement"), which is incorporated herein by reference.

WHEREAS, the Grant Agreement binds the University to comply with all commitments made by the University in its grant application and communications filed in support of its request for grant funding, including providing funds for the Subrecipient's participation, and

WHEREAS, it is in the best interest of the University to obtain the assistance of Subrecipient in the performance of a portion of the work to be performed under the Grant Agreement, and

WHEREAS, Subrecipient possesses the facilities and personnel necessary to pursue the objectives and fulfill the requirements of this Subaward,

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, University and Subrecipient agree to the following terms and conditions of this Subaward:

TERMS AND CONDITIONS

1. General

The terms and conditions of this Subaward are intended to be in concert with the terms and conditions referenced on the face of the Grant Agreement incorporated herein by reference.

2. Scope of Work

The Subrecipient's personnel shall design and construct three (3) dry weather flow diversion facilities on Camino Del Oro, Torrey Pines Road (and Charlotte Street), and 1624 Torrey Pines Road (the "Project") as more fully described in the Scope of Work (attached hereto as Attachment 2) specified and incorporated herein by reference. All work on or for this Project shall conform with the Plans and Compliance Requirements and Construction Administration requirements indicated in the sections 1 and 2.4 of Exhibit A of the Grant Agreement.

3. Compliance with the Terms of the Grant Agreement

SUBAWARD AGREEMENT

Agreement 0001

000820

In performing work on or for the Project, the Subrecipient agrees to all the applicable terms, provisions, conditions, and commitments of the "Grantee" as defined in the Grant Agreement. The Subrecipient further agrees that, for all submittals to and reviews by and all other actions to be taken by the "Grant Manager" (as that term is defined in the Grant Agreement) pursuant to the Grant Agreement, the University will coordinate such reviews, submittals and all other actions with the Grant Manager. The Subrecipient will, therefore, coordinate all such submittals directly with the University at least five (5) working days prior to the date due to the State, or as otherwise agreed by the Subrecipient and the University, and the University will retain responsibility for all coordination and communication with the State as required by the Grant Agreement.

4. Scientific and Program Control

The University's Representative, listed below, shall coordinate the efforts of the various investigators and has overall project management control. Contractual matters are under the control of the University's Representative.

5. Subrecipient Key Personnel

The Subrecipient's Project Manager, Stephanie Bracci, shall be responsible for the conduct of Subrecipient and shall be the administrative liaison on behalf of Subrecipient under this Subaward. As such, the Subrecipient's Project Manager's services are considered to be essential to the performance of the project under this Subaward and any change in key personnel must be approved by the University. University approval of changes to key personnel shall not be unreasonably withheld.

6. Notice

Any and all notices which may be required under this Subaward shall be in writing, shall be effective upon receipt, and shall be given by personal service, or by regular mail, or by an overnight courier service to the addresses set forth below, or as otherwise expressly stated in this Subaward, or as later modified in writing.

To Subrecipient: City of San Diego Storm Water Pollution Prevention
Attention: Stephanie Bracci
9370 Chesapeake Drive, Suite 100, MS 1900
San Diego, CA 92123

To University Representative: FACILITIES DESIGN AND CONSTRUCTION
ATTENTION: ANKA FABIAN,
PRINCIPAL CIVIL ENGINEER
10280 NORTH TORREY PINES ROAD, SUITE 470
UNIVERSITY OF CALIFORNIA, SAN DIEGO
LA JOLLA, CALIFORNIA 92093-0916

SUBAWARD AGREEMENT

Agreement 0001

000821

7. Period of Performance

The Period of Performance for this Subaward is as outlined in the Grant Agreement. All work shall be completed by March 1, 2010. Absolutely no funds may be requested after March 1, 2010.

8. Compensation

Total estimated cost of the Scope of Work described in Attachment 2 is \$875,000. In consideration of services rendered and/or items delivered or reported by the Subrecipient in accordance with the above Article 2, SCOPE OF WORK and revisions thereto, the University will provide compensation to the Subrecipient for work performed on or for the Project within the Period of Performance on a cost-reimbursement basis up to \$700,000. In addition to this reimbursable amount, Subrecipient agrees to fund up to \$175,000 of the total estimated cost of the Scope of Work described in Attachment 2 as its contribution. The University's obligation for any funding, including additional funding, is contingent upon continued funding from the State.

8.1 Allowable Costs

The Subrecipient's allowable (reimbursable) costs will be as stated in Attachment 3, incorporated herein by reference, and the following: Expenditures that are reimbursable are those set forth in the Budget which is attached hereto, identified as "Attachment 4," and incorporated herein by reference. Allowable Costs for For-profit entities shall be governed by the cost principles set forth in The Federal Acquisition Regulation (FAR) at <http://farsite.hill.af.mil> and <http://www.arnet.gov/far/> or as otherwise provided by reference in this Subaward or its Attachments. For entities that are higher education or non-profit institutions, OMB A-21 apply <http://www.whitehouse.gov/omb/circulars/a021/a021.html> or OMB A-122 http://www.whitehouse.gov/omb/circulars/a122/a122_2004.html apply respectively.

8.2 Rebudgeting of Funds

Subrecipient must obtain the prior written approval of the University for all rebudgeting of funds.

8.3 Limitation of Funds

The limitation of reimbursement funding by the University to the Subrecipient will be as stated in Attachment 3 and the following: If Subrecipient has reason to believe that the cost for the performance on the Project will be greater than the total estimated cost in this Subaward, Subrecipient shall notify University in writing giving a revised estimate of the cost of completion. University shall not be obligated to reimburse Subrecipient for the costs incurred in excess of the reimbursable amount specified above. Subrecipient shall not be obligated to incur costs in excess of such estimated costs unless and until University has notified Subrecipient in writing that the estimated cost has been increased appropriately. Upon expenditure of the total estimated cost specified in this Subaward, the Subrecipient's obligation to continue performance on the Project shall cease.

9. Invoices and Payment

SUBAWARD AGREEMENT

Agreement 0001

000822

Invoices from the Subrecipient under the Agreement will conform with the requirements as stated in the Grant Agreement (Ex. B of Attachment 1), Attachment 3, and the following: The Subrecipient shall submit invoices not more frequently than monthly for reimbursement of allowable expenditures incurred. Costs must be identified on each invoice by line item similar to the budget listed in Attachment 4. All invoices must reference this Agreement and Item number. Travel and Per Diem expenses must also comply with the requirements in Attachment 3, which is incorporated herein by reference. A Final Invoice marked "Final" shall be submitted no later than March 1, 2010 or the date of termination of this Subaward, whichever is earlier. All invoices shall be submitted to:

FACILITIES DESIGN AND CONSTRUCTION
ATTENTION: ANKA FABIAN, PRINCIPAL CIVIL ENGINEER
10280 NORTH TORREY PINES ROAD, SUITE 470
UNIVERSITY OF CALIFORNIA, SAN DIEGO
LA JOLLA, CALIFORNIA 92093-0916

The University shall make provisional payment on all invoices submitted in accordance with the terms of this Subaward.

10. Disputes

If either party believes there is a dispute either of fact or of interpretation arising from the performance or administration of this Subaward, that party will notify the other party, and the parties agree to exercise their best efforts to reach a fair and equitable resolution of the dispute. The parties involved in the dispute, including any entity engaged by the Subrecipient, shall proceed diligently with performance of the Project under this Subaward pending final resolution of any request for relief, claim, appeal or action related to this Subaward. If the dispute cannot be resolved by the parties involved, the complainant may file a protest or notice of other controversy with the Campus Architect, Boone Hellmann, Facilities Design and Construction, 10280 North Torrey Pines Road, Suite 470, University of California, San Diego. A protest notice or notices must be in writing. The parties shall delegate the authority to investigate the issues involved in the dispute, analyze the findings, consult with the parties' respective legal counsel where appropriate, and attempt to mediate a resolution to the dispute. Compliance with this Article does not preclude use of any other legal remedies by the parties.

11. Reporting Requirements During Period of Performance

11.1 Technical Reports:

Subrecipient will prepare or assist in the preparation of reports associated with the Project as stated in the Grant Agreement (Ex. B of Attachment 1), Attachment 5, and the following: Unless otherwise stated on the Agreement or other Attachment, preparation and submission of Subrecipient's Progress Reports and Final Report shall be at the direction of and sent directly to the University's Representative. The format of all Technical Reports shall be in a format as stated in an applicable Attachment and if not used, it will be in a format acceptable by the University's Representative and the State as applicable. Subrecipient shall submit to the

SUBAWARD AGREEMENT

Agreement 0001

000823 University's Representative a Final Report not later than March 1, 2010, or the termination date of this Subaward, whichever is earlier.

11.2 Significant Developments:

Subrecipient shall immediately inform the University of circumstances that have significant impact upon the Project to be conducted hereunder. Such circumstances include, but are not limited to, any orders or other quasi-adjudicative, or quasi-legislative action by the State Water Resources Control Board or the Regional Water Quality Control Board, Region 9, that regard discharges of urban runoff into the ASBS.

11.3 Financial Reporting:

- 1) Unless otherwise stated in this Agreement or other Attachment, Subrecipient shall submit Financial Status Reports detailing all cumulative expenditures under this Subaward. The report frequency will be at the discretion of the University Representative. The report shall contain the following reporting categories as applicable: Direct Labor Hours, Direct Labor Dollars, Materials, Equipment, Consultants, Subawards, Travel, Other Direct Costs and Indirect Costs. A Final Financial Status Report shall be submitted no later than March 1, 2010, or the date of the Subaward Budget Period or date of termination of this Subaward, whichever is earlier.
- 2) Financial Status Reports shall be submitted to the University Representative.

12. Notice of Delay

If Subrecipient is unable to complete the Project under this Subaward in the time specified because of technical difficulties, notwithstanding the exercise of good faith and diligent effort, the Subrecipient shall give University written notice of the anticipated delay and the reasons thereof. Such notice and reasons shall be delivered within seven (7) days after the conditions creating the anticipated delay become known to the Subrecipient, but in no event later than January 15, 2010, unless otherwise directed by University. When notice is so required, University may, at its discretion and as necessary, with the approval of the State, extend the time specified for such period as it deems advisable.

13. Copyright

Subrecipient hereby grants a royalty-free, and other free nonexclusive, and irrevocable license to the University to use any portion of the Project for educational and research purposes.

14. Patents and Inventions

Subrecipient shall comply with and be bound by the applicable terms and conditions of the patent regulations in 37 Code of Federal Regulations. Subrecipient further agrees to acknowledge University and State support for any and all patent and license activities associated with this Subaward. Subrecipient agrees to grant, and hereby grants University a

SUBAWARD AGREEMENT

Agreement 0001
000021

perpetual, paid up, non-exclusive license to practice Subrecipient's inventions arising hereunder for non-commercial purposes.

15. Publications

The Subrecipient shall make available to and closely coordinate with the University Representative any scientific, technical or professional publication related to the results of the Project as conducted under this Subaward.

16. Acknowledgement of Support and Disclaimer

An acknowledgement of University and State support and disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under the Project in the following terms:

"This material is based on work supported by the State Water Resources Control Board under Grant Agreement No. 06-072-559-0 and The Regents of the University of California."

All materials except scientific articles or papers published in scientific journals must also contain the following:

"Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the State Water Resources Control Board or The Regents of the University of California."

17. Site Visits

University and State, through authorized representatives, have the right, at all reasonable times, to make site visits to review project accomplishments and provide such technical assistance as may be required. If any site visit is made on the premises of Subrecipient, Subrecipient shall provide, and require its Subrecipients and contractors to provide, all reasonable facilities and assistance for the safety and convenience of University and State representatives in the performance of their duties. All site visits and evaluation shall be performed in such a manner as will not unduly interfere with or delay the work.

18. Equipment Accountability and Disposition

Equipment purchased, fabricated or otherwise acquired by the Subrecipient, with funds from this Subaward, is defined as an article of tangible personal property that is free standing with a useful life of more than two years and an acquisition cost of \$5,000 or more.

Equipment purchased hereunder by Subrecipient, if any, is as budgeted and set forth in Attachment 4. Costs incurred by Subrecipient in acquiring the equipment as budgeted shall be considered allowable costs under this Subaward, provided that any limitations explicit in Attachment 4 are maintained. University shall have no obligation to reimburse any amount for equipment unless Subrecipient receives prior approval from the University or is otherwise permitted under the specific terms and conditions of the Subaward.

SUBAWARD AGREEMENT

Agreement 0001

000825

The Subrecipient shall have responsibility for the care, custody, reporting, and use of property acquired under this Subaward and shall assume the responsibility and obligations respecting said property while under the Subrecipient's control. The property management system, property and pertinent records of the Subrecipient are to be held available for inspection by the University and State on reasonable notice.

Except for equipment defined as State or University Furnished Property, or equipment acquired by a for-profit company, the Subrecipient will receive title to all equipment at time of completion of fabrication or purchase, subject to the rights of the State as may be flowed down with this Subaward.

19. Assignment

Subrecipient shall not assign or transfer any responsibilities hereunder without prior consent of University.

20. Suspension or Termination

20.1 Suspension

The University may suspend this Subaward in whole or in part, (1) when the University believes that the Subrecipient has materially failed to comply with the terms and conditions of this Subaward, or (2) for any reason by mutual agreement between the University and Subrecipient upon the request of either party.

20.2 Termination

The parties' rights to termination are as stated in Attachment 3, and the following:

- a) If at any time the Grant Agreement is terminated by the State, this Subaward shall also be terminated, effective upon receipt by the Subrecipient of written notice to that effect from University.
- b) Termination shall be in accordance with FAR 52.249-5 for Educational or non-profits; FAR 52.249.6 for those not subject to FAR 52.249.5, unless otherwise stated in this Subaward.

21. Close Out

- a) The Subaward may be closed out without a specific (transactional) audit. The closeout of this Subaward shall not effect the record retention period or the University's or State's right of access to project records. After closeout, subject to mutual agreement between the University and Subrecipient, the University may disallow and recover from the Subrecipient an appropriate amount, on the basis of a subsequently received audit report or any other available information.
- b) Subrecipient shall submit a final Invoice marked "Final" no later than March 1, 2010. Subrecipient acknowledges that their Final Invoice represents Subrecipient's final

SUBAWARD AGREEMENT

Agreement 0001

030826

billing and University will have no further obligation to Subrecipient after receipt of Final Invoice. Subrecipient shall return to University any residual funding such as Refunds, Rebates or Credits received under this Subaward within 60 days after receipt of such Refunds, Rebates or Credits. Subrecipient will sign and forward a Contractor's Release Form and a Contractor's Assignment of Refunds, Rebates Form to University with final invoice.

- c) This Subaward will be officially closed out 90 days after the Period of Performance, or termination date, whichever is earlier.

22. Indemnification

Each party shall defend, indemnify and hold the other party, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Subaward but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of itself, its officers, employees, or agents. The obligations to indemnify, defend and hold harmless under this section shall survive any termination of this Subaward and shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the indemnity under any statutory scheme, including, without limitation, under any Worker's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

23. Governing Law

This Subaward shall be governed by the laws of the State of California without regard to the Conflict of Laws Provisions thereof, regardless of the place of execution or performance.

24. Entire Subaward

This Subaward which includes the referenced attachments, states the entire contract between the parties with respect to the subject matter of this Subaward and supersedes any previous or contemporaneous written or oral representations, statements, negotiations or agreements. Subrecipient acknowledges that it has not been induced to enter into this Subaward by any oral or written statements or representations not expressly provided in this Subaward.

25. Documents and Attachments In Order of Precedence

Attachments 1, 2, 3, 4, and 5 are incorporated by reference. In instances of conflict between documents and attachments, the following order of precedence will apply, unless expressly stated otherwise:

- A. Subaward Agreement No. 0001
- B. Attachment 2, Scope of Work Agreement
- C. Attachment 4, Budget
- D. Attachment 3, Standard Conditions
- E. Attachment 5, Progress Report Format
- F. Attachment 1, Grant Agreement No. 06-072-559-0

SUBAWARD AGREEMENT

Agreement 0001

000827

IN WITNESS WHEREOF, the parties hereto have executed this Subaward on the day and year first above written.

SUBRECIPIENT:

City of San Diego, a municipal corporation

Name: Tammy Rimes

Title: Assistant Director, Purchasing and Contracting Department

Signature: _____ Date: _____

SUBGRANTOR:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
a California corporation

Name: PA. BOONE HELLMAN

Title: ASSOCIATE VICE CHANCELLOR

Signature: PA. Boone Hellman Date: _____

161443.1

0000329

00-5059
FOR STATE USE ONLY
DGS REGISTRATION NO.

2005 - 2006 CONSOLIDATED GRANTS - PROP 50
COASTAL NONPOINT SOURCE POLLUTION CONTROL PROGRAM
GRANT AGREEMENT

BETWEEN THE
STATE WATER RESOURCES CONTROL BOARD, hereinafter called "State" or "State Water Board"
AND

The Regents of the University of California, hereinafter called "Grantee"

La Jolla Shores Area of Special Biological Significance (ASBS) Dry Weather Flow and Pollution Control
Program, hereinafter called "Project"

AGREEMENT NO. 06-072-559-0

State and Grantee hereby agree as follows:

PROVISION(S). The following provision(s) authorize the State Water Board to enter into this type of Grant Agreement:

WC § 79543 (Pr 50 Coastal Nonpoint Source Pollution Control)

PURPOSE. State shall provide a grant to and for the benefit of Grantee for the purpose of implementing Best Management Practices (BMPs) that include pollution prevention measures, treatment controls, dry weather flow diversions, and site controls to eliminate non-storm water discharges, reduce the loading of pollutants of concern, improve water quality, and protect valuable ocean resources within both ASBS.

GRANT AMOUNT. The maximum amount payable under this Agreement shall not exceed \$3,600,000. Global Positioning System (GPS) locations for any BMPs to be constructed must be identified for this Project prior to any disbursements for construction.

TERM OF AGREEMENT. The term of the Agreement shall begin on January 1, 2007 and continue through Project completion plus thirty-six (36) years unless otherwise terminated or amended as provided in the Agreement. **HOWEVER, ALL WORK SHALL BE COMPLETED BY March 1, 2010. ABSOLUTELY NO FUNDS MAY BE REQUESTED AFTER April 1, 2010.**

PROJECT REPRESENTATIVES. The Project Representatives during the term of this Agreement will be:

State Water Board	Grantee: The Regents of the University of California
Name: Jeffrey Albrecht, Grant Manager	Name: Stephen Benedict, Project Director
Address: 1001 I Street, 16 th Floor	Address: 9500 Gilman Drive, MC 0920
City, Zip: Sacramento, CA 95814	City, Zip: La Jolla, CA 92093-0920
Phone: (916) 341-5717	Phone: (858) 534-3659
Fax: (916) 341-5707	Fax: (858) 534-7982
e-mail: jalbrecht@waterboards.ca.gov	e-mail: sbenedict@ucsd.edu

Direct all inquiries to:

State Water Board	Grantee: The Regents of the University of California
Section: Division of Financial Assistance	Section: Contract and Grant Administration
Attention: Debbie Abbey, Program Analyst	Name: Linda Dale, Grant Contact
Address: 1001 I Street, 17 th Floor	Address: 9500 Gilman Drive, MC 0934
City, Zip: Sacramento, CA 95814	City, Zip: La Jolla, CA 92093-0934
Phone: (916) 341-5930	Phone: (858) 534-3333
Fax: (916) 341-5296	Fax: (858) 534-0280
e-mail: dabbey@waterboards.ca.gov	e-mail: ldale@ucsd.edu

Either party may change its Project Representative upon written notice to the other party.

STANDARD PROVISIONS. The following exhibits are attached and made a part of this Agreement by this reference:

- Exhibit A SCOPE OF WORK
- Exhibit B INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS
- Exhibit C GENERAL CONDITIONS - 2005-06 CONSOLIDATED GRANTS
- Exhibit D SPECIAL CONDITIONS - 2005-06 CONSOLIDATED GRANTS

GRANTEE REPRESENTATIONS. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding. Grantee shall comply with and require its contractors and subcontractors to comply with all applicable laws, policies and regulations.

IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

By:


Grantee Signature

Steven W. Relyea

Grantee Typed/Printed Name

Vice Chancellor - Business Affairs 1/4/07

Title and Date

By:


Esteban Almanza, Deputy Director
State Water Resources Control Board,
Division of Administrative Services

Date

Reviewed by:
Office of Chief Counsel
Date:

M-1

EXHIBIT A
SCOPE OF WORK

1. PLANS AND COMPLIANCE REQUIREMENTS

- 1.1 In order for the State and Regional Water Quality Control Board (Regional Water Board) staff to verify work was adequately performed or conducted, GPS information for Project site locations and monitoring locations must be identified for this Project prior to any disbursements for construction or monitoring. Submittal requirements for GPS data are available at <http://www.waterboards.ca.gov/funding/grantinfo.html>.
- 1.2 The Grantee shall prepare and implement a Project Assessment and Evaluation Plan (PAEP) to detail the methods of measuring Project benefits and reporting them in accordance with a PAEP. Many projects include multiple activities that will require measurement of several parameters to evaluate Project performance. All implementation projects that propose pollution load and/or concentration reductions must report such reductions annually. Use the 319(h) Non Point Source Pollution Reduction Project Follow-up Survey Form found at http://www.waterboards.ca.gov/funding/docs/grantinfo/319h_pollution_survey.xls or a similar format to report annual load reductions. Projects protecting, restoring or creating streams, shorelines, or wetlands, must report an annual accounting of the acres of wetlands restored and created, feet of stream bank and shoreline protected and feet of stream channel stabilized. Grantee shall not implement monitoring and performance assessment and/or evaluation actions prior to PAEP approval by the Grant Manager. Guidance for preparing the PAEP is available at <http://www.waterboards.ca.gov/funding/paep.html>.
- 1.3 If environmental water quality monitoring (chemical, physical, or biological) is undertaken, the Grantee shall prepare, maintain, and implement a Monitoring Plan (MP). The MP shall include, but is not limited to, a description of the monitoring objectives, types of constituents to be monitored, and the sampling location frequency/schedule for the monitoring activities. The MP will include the schedule for submittal of monitoring reports. When monitoring ocean waters, the MP shall follow the Standard Monitoring Procedures set forth in the California Ocean Plan (i.e. method detection limits listed in Table B Water Quality Objectives). The Grantee shall be prohibited from implementing any sampling or monitoring activities prior to approval of the MP by the Grant Manager. No monitoring may occur prior to MP approval. Any changes to the MP must be submitted to the Grant Manager for review and a decision regarding approval prior to implementation.
- 1.4 If an MP is prepared, the Grantee shall also prepare, maintain, and implement a Quality Assurance Project Plan (QAPP) in accordance with the State Water Board's Surface Water Ambient Monitoring Program's (SWAMP) QAPP and data reporting requirements, and the USEPA QAPP, EPA AQ/R5, 3/01. Water quality monitoring data includes physical, chemical, and biological monitoring of any surface water. Electronic submittal of data collected in accordance with SWAMP shall be required. The QAPP shall be submitted to the State or Regional Water Board's Quality Assurance (QA) Officer for review and a decision regarding approval prior to the Grantee implementing any sampling or monitoring activities. No monitoring may occur prior to QAPP approval. Any costs related to monitoring data collected prior to and not supported by the approved QAPP will not be reimbursed. Guidance for preparing the QAPP is available at <http://www.waterboards.ca.gov/swamp/qapp.html>.
- 1.5 All projects are required to comply with the California Environmental Quality Act (CEQA). Work on the Project cannot begin until the State Water Board has reviewed the CEQA documentation submitted by the Grantee and given environmental clearance. If the work is conducted on federal land, the Grantee must also comply with the National Environmental Policy Act (NEPA).
- 1.6 If landowner agreements are required, signed copies must be submitted to the Grant Manager before works begins.
- 1.7 If permits are required, the permits must be obtained and signed copies submitted to the Grant Manager before work begins.

- 1.8 State Disclosure Requirements – Include the following disclosure statement in any document, written report, or brochure prepared in whole or in part pursuant to this Agreement:

"Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the State Water Resources Control Board, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." (Gov. Code 7550, 40 CFR 31.20)

Signage shall be posted in a prominent location at Project site (if applicable) and shall include the State Water Board logo (available from the Program Analyst) and the following disclosure statement:

"Funding for this project has been provided in full or in part through an agreement with the State Water Resources Control Board."

- 1.9. The Grantee shall also include in each of its contracts for work under this Agreement a provision that incorporates the requirements stated within this work item. (Gov. Code 7550)

2. WORK TO BE PERFORMED BY GRANTEE

2.1 Technical Advisory Committee (TAC)

2.1.1 Maintain the existing La Jolla Shores TAC that includes Scripps Institution of Oceanography (SIO), University of California San Diego (UCSD), the City of San Diego (City) and Coastkeeper (formerly Baykeeper).

2.1.2 Convene TAC meetings on a quarterly basis and provide notification of scheduled meetings to the Grant Manager.

2.2 Planning/Design/Engineering

2.2.1 Preliminary Design

2.2.1.1 Conduct site evaluations to determine preliminary configurations for each component of the Project as early in the process as possible.

2.2.1.2 Assess the hydrology of drainage areas and conduct rainfall/runoff monitoring to determine rainfall to runoff relationships for drainage areas targeted for BMPs.

2.2.1.3 Prepare preliminary design plans for each of the following treatment controls:

- One (1) media filter for Outfall 002 to treat the 85 percentile (85%) storm event for pollutants of concern and divert dry weather flows to the sanitary sewer system.
- One (1) Birch Aquarium treatment system to eliminate non-indigenous species from seawater return discharges.

2.2.1.4 Prepare preliminary design plan for five (5) dry weather flow diversions to divert non-storm water flows to the sanitary sewer system. Where necessary to control flows, provide an automated diversion valve to discharge wet weather flows to the storm drain system.

2.2.1.5 Prepare preliminary design plans for each of the following source controls:

- Four (4) wash racks to divert wash-water from vehicle, boat, and equipment washing activities to the sanitary sewer system during dry weather conditions. Provide pre-treatment, if needed, to meet sewer discharge limits.

- Provide automated diversion valve to discharge wet weather flows to the storm drain system during wet weather events.
- Two (2) secure, bermed, and covered trash enclosures to eliminate illegal dumping, centralize trash storage, and prevent trash from entering the storm drain system.
- Five (5) diversion structures to prevent exposure of storm water to potential pollutants and reduce facility flooding at the Sumner Auditorium and Center for Coastal Studies Building.
- Thirteen (13) locations with pollution prevention controls for material storage to contain and prevent the exposure of significant materials and equipment during storm events.
- Erosion and sediment control measures for six (6) areas to restore eroding slopes using retaining structures and, where feasible, restoring native vegetation and incorporating Low Impact Development (LID); and provide erosion and sediment controls to reduce sediment loading into storm drain inlets, and prevent dry and wet weather flows containing sediment and other potential pollutants from entering SIO drainage basins.
- Two (2) sewer connections to eliminate non-storm water discharges flowing into the storm drain system.

2.2.1.6 Prepare preliminary design plans for each of the following site controls (LID project):

- Roof runoff controls to treat and attenuate runoff from the Hydraulics Laboratory's copper roof.
- Three (3) biofiltration/bioretenion systems to treat runoff from three (3) parking lots, restoring native vegetation, where feasible.
- Five (5) facilities with infiltration trenches around storm drain inlets within vegetated areas to capture non-storm water discharges and treat small volumes of storm water restoring native vegetation, where feasible.

2.2.1.7 Provide a Preliminary Design Report that includes: final contour mapping, drainage information, an evaluation of multiple alternative designs and layouts, the selection of the preferred design to optimize the treatment of pollutants of concern and minimize potential environmental impacts and project costs, schematic design plans with design criteria, such as design flow, pipe sizes, elevations, basin size, etc., project schedule, and cost estimates for the preferred alternatives.

2.2.1.8 Submit Preliminary Design Report to Grant Manager.

2.2.2 Design and Engineering Plans

2.2.2.1 Prepare field and geotechnical surveys to determine utility constraints and soil conditions.

2.2.2.2 Prepare design development documents, drawings, outline specifications, and narratives needed to establish and describe the size and character of the entire Project upon approval of schematic design documents. Incorporate into the design documents architectural, structural, mechanical, and electrical systems, materials, and other elements and systems as necessary. Update the schematic design criteria, including documentation supporting the design criteria. Provide Grant Manager an updated estimated Project construction cost.

MM

- 2.2.2.3 Prepare percent complete drawings and specifications for each BMP, configuration, size, and relationship of all components to be incorporated into the Project. Design specifications will describe construction materials and processes required to complete the Project, with the drawings serving as the visual complement. Review plans and specifications by internal and external entities, including UCSD Facilities Design and Construction (FD&C), Environment, Health & Safety, Physical Planning, and Real Estate Development to ensure that documents are consistent with Project goals, construction budget, and Project schedule.
- 2.2.2.4 Submit the 50 percent (50%) working drawings to the Grant Manager.
- 2.2.2.5 Submit the 100 percent (100%) working drawings to the Grant Manager.

2.3 Construction/Implementation

- 2.3.1 In order for the Regional Water Board staff and State Water Board staff to verify work was adequately performed or conducted, GPS locations for BMPs must be identified for this Project prior to any disbursements for this work item.
- 2.3.2 Bid and award the Project to construct the treatment controls, dry weather flow diversions, source controls, and site controls (LID projects) per the approved 100 percent (100%) working drawings and under the direction of the FD&C Project Manager. It is anticipated that separate contractors may be used for various Project BMPs. Provide Grant Manager a copy of bids for review prior to award and copies of awarded contracts.
- 2.3.3 Construct BMPs in accordance with the approved 100 percent (100%) working drawings.
- 2.3.4 Implement temporary BMPs, prior to and during construction, to reduce pollutants in storm water discharges throughout construction. These construction site BMPs provide both temporary erosion and sediment control and include on-storm water controls, waste management, and material pollution controls.
- 2.3.5 Coordinate the development of this Project with other efforts to protect ASBS to produce models that will be transferable statewide. Conduct at least eight (8) public workshops to engage the public and decision-makers in the Project implementation. The workshops will seek to involve a diverse group of stakeholders. In addition, special meetings, and individual communications between team members and agency representatives will be conducted to receive Project input. The preliminary stakeholders include:
- Regional Water Board, San Diego Region
 - State Water Board
 - California Coastal Commission
 - California Department of Fish and Game
 - California Coastal Conservancy
 - National Resource Defense Council
 - The Ocean Conservancy
 - Birch Aquarium
 - Friends of the Map
 - La Jolla Town Council
 - La Jolla Chamber of Commerce
 - La Jolla Interested Public
- 2.3.6 Implement a pollution prevention campaign aimed at disseminating information about the Project. Use Speakers Bureau presentations to stimulate community interest and involvement in the Project and promote pollution prevention practices throughout the watershed. The Speakers Bureau presentations will include an overview of ASBS/ocean protection requirements, a historical look at the La Jolla Shores area (including pollution trends), a discussion of watersheds

MM

and their role in carrying runoff to receiving waters, and an overview of the goals and objectives of this Project.

- 2.3.7 Coordinate and provide input to the Friends of Kellogg Park to develop ASBS/ocean stewardship messages for the general public. Collaborate on the development of interpretive messages to promote stewardship in the watershed and ASBS/ocean protection.
 - 2.3.8 Develop and disseminate ASBS/ocean protection and Project information through regular email updates (minimum of ten [10]), the Coastkeeper quarterly Watermarks newsletter (minimum six [6] ASBS highlights), informational brochures (to be distributed at each workshop, minimum distribution of five thousand (5,000), and media campaigns.
 - 2.3.9 Conduct at least four (4) Beach Cleanups at La Jolla Shores, involving approximately seventy five (75) people annually. Weigh and document debris to identify pollution trends in the area and provide information for abatement and pollution practices in the community, which will be used for public awareness purposes.
 - 2.3.10 Conduct a Beach Teach project for underrepresented children where they will assist with erosion control through native plant restoration and learn more about ASBS/ocean protection.
 - 2.3.11 Provide the State Water Board an opportunity to review and comment on outreach activities and provide notification prior to scheduled events.
 - 2.3.12 Report outreach activities in Progress Reports to Grant Manager.
- 2.4 Construction Administration
- 2.4.1 Conduct pre-construction meeting with design team, selected contractor(s) and Project inspector(s).
 - 2.4.2 Provide construction administration to ensure that the Project adheres to the work item budget, and schedule. Issue necessary paperwork, such as the "Notice to Proceed," change orders, equipment orders, and the "Notice of Substantial Completion."
 - 2.4.3 Perform regular on-site observations during construction to assess work progress and to ensure that the character, scope, quality, and detail of construction (including workmanship and materials) comply with the design expressed in the contract documents, approved product data and samples, and clarification drawings.
 - 2.4.4 Conduct photo monitoring at the site pre, during, and post construction. Submit photos to the Grant Manager as progress proceeds to be included in Progress Reports.
 - 2.4.5 Conduct final inspection of BMPs and submit the final inspection documentation to the Grant Manager.
 - 2.4.6 Prepare and submit as-built drawings to the Grant Manager

TABLE OF ITEMS FOR REVIEW

Item	DESCRIPTION	CRITICAL MILESTONE DATE	ESTIMATED DUE DATE
EXHIBIT A - SCOPE OF WORK			
1.	PLANS AND COMPLIANCE REQUIREMENTS		
1.1	GPS information for Project site and monitoring locations	Day 90	
1.2	Project Assessment and Evaluation Plan (PAEP)	Day 30	
1.2	Non Point Source Pollution Reduction Project Follow-up Survey Form		Annually by 12/15
1.3	Monitoring Plan (MP)	Day 90	
	Monitoring Reports		Upon completion of monitoring
1.4	Quality Assurance Project Plan (QAPP)	Day 120	
1.5	Copy of final CEQA/NEPA Documentation	Day 90	
1.7	Applicable Permits		As required
2.	WORK TO BE PERFORMED BY GRANTEE		
2.1.2	TAC meeting notification		Ongoing
2.2.1.8	Preliminary Design Report		90 days prior to construction
2.2.2.4	50% working drawings		60 days prior to construction
2.2.2.5	100% working drawings		30 days prior to construction
2.3.2	Copies of bids for review and awarded contracts		Ongoing
2.4.4	Photo documentation		Ongoing
2.4.5	Final Inspection Documentation		February 2010
2.4.6	As-built drawings		February 2010
EXHIBIT B - INVOICING, BUDGET DETAIL, AND REPORTING PROVISIONS			
A.	INVOICING		Monthly
E.	REPORTS		
1.	Grant Summary Form		Day 90
2.	Progress Reports by the twentieth (20 th) of the month		Monthly
3.	Natural Resource Projects Inventory (NRPI) Project Survey Form	Before final invoice	
4.	Draft Project Report	Feb 1, 2010	
5.	Final Project Report	March 1, 2010	

M/1

EXHIBIT B
INVOICING, BUDGET DETAIL AND REPORTING PROVISIONS

A. INVOICING

1. Invoices shall be submitted using the invoice template provided by the State Water Board. The invoice must be itemized based on the line items specified in the Budget. The original invoice shall be submitted to the State Water Board's Grant Manager on a monthly basis consistent with the reporting schedule in Section E.2 of this exhibit. The address for submittal is:

Jeffrey Albrecht, Grant Manager
State Water Resources Control Board
1001 I Street, 17th Floor
Sacramento, CA 95814

2. Invoices submitted in any other format than the one provided by the State Water Board will cause an invoice to be disputed. In the event of an invoice dispute, the State Water Board's Grant Manager will notify the Grantee by initiating an "Invoice Dispute Notification" form. Payment will not be made until the dispute is resolved and a corrected invoice submitted. Failure to use the address exactly as provided above may result in return of the invoice to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. The State Water Board Grant Manager has the responsibility for approving invoices.
3. Supporting documentation (e.g., receipts/general ledger) must be submitted with each invoice to request reimbursement for grant funds as well as to support matching funds invoiced. The amount claimed for the Personnel Services line item and Professional and Consultant Services line item must include a calculation formula (i.e. hours or days worked times the hourly or daily rate = total amount claimed). Invoice payment shall be made only after receipt of a complete, adequately supported, properly documented and accurately addressed invoice.
4. The Grantee shall not request disbursement for any cost until such cost has been incurred and has been paid by or is due and payable by the Grantee. Although it is agreed that actual payment of such cost by the Grantee is not required as a condition of the grant disbursement, all grant disbursements received by the Grantee shall be paid to contractors and vendors within thirty (30) days from receipt of the funds. In the event that the Grantee fails to disburse grant funds to contractors or vendors within thirty (30) days from receipt of the funds, the Grantee shall immediately return such funds to the State Water Board. Interest shall accrue on such funds from the date of disbursement through the date of mailing of funds to the State Water Board. If the Grantee held such funds in interest-bearing accounts, any interest earned on the funds shall also be due to the State Water Board.
5. Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations, or which may require any rebates to the Federal Government, or any loss of tax-free status on state bonds, pursuant to any Federal statute or regulation.
6. Notwithstanding any other provision of this Agreement, the Grantee agrees that the State Water Board may retain an amount equal to ten percent (10%) of the grant amount specified in this Agreement until completion of the Project. Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon completion of the Project.
7. The invoice shall contain the following information:
 - a. The date of the invoice;
 - b. The time period covered by the invoice, i.e., the term "from" and "to";
 - c. The total amount due; and

- d. Original signature and date (in ink) of Grantee or its authorized representative.
- e. Final invoice shall be clearly marked 'FINAL INVOICE' and submitted NO LATER THAN APRIL 1, 2010.

B. BUDGET CONTINGENCY CLAUSE

The maximum amount to be encumbered under this Agreement for the 2006-07 fiscal year ending June 30, 2007 shall not exceed three million six hundred thousand dollars (\$3,600,000).

If the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of the State Water Board to make any payments under this Agreement. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Grantee with a right of priority for payment over any other Grantee.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Grantee to reflect the reduced amount.

C. LINE ITEM BUDGET

			PROP. 50	MATCH	TOTAL
Personnel Services			\$274,379	\$190,313	\$464,692
Classification	Hours	Wage/Hour			
Director	120	\$158			
Principal Civil Engineer	2800	\$101			
Administrative Support	1300	\$48			
Project Inspector	500	\$101			
Facilities Management	1042	\$48			
Operating Expenses (Prorated for Project)			\$7,000		\$7,000
Includes:					
Travel Expenses					
Supplies (less than \$5,000 per item)					
Professional and Consultant Services			\$1,001,119	\$114,187	\$1,115,306
Project Management					
QAPP					
PAEP					
Monitoring					
Reporting					
Public Participation					
Planning / Design / Environmental					
Construction (Contracted Services)			\$2,317,502	\$595,500	\$2,913,002
Construction / Implementation					
Dry Weather Diversions					
TOTAL			\$3,600,000	\$900,000	\$4,500,000

B-11

D. BUDGET LINE ITEM FLEXIBILITY

1. Line Item Adjustment(s). Subject to the prior review and approval of the State Water Board's Grant Manager, adjustments between existing line item(s) may be used to defray allowable direct costs up to fifteen percent (15%) of the total grant amount including any amendment(s) thereto. Line item adjustments in excess of fifteen percent (15%) shall require a formal Agreement amendment.
2. Procedure to Request an Adjustment. Grantee may submit a request for an adjustment in writing to the State Water Board. Such adjustment may not increase or decrease the total grant amount allocated per fiscal year. The Grantee shall submit a copy of the original Agreement Budget sheet reflecting the requested changes. Changes shall be noted by striking the original amount(s) followed with revised change(s) in bold and underlined. Budget adjustments deleting a budget line item or adding a new budget line item requires a formal amendment and are not permissible under this provision. The State Water Board may also propose adjustments to the budget.
3. Remaining Balance. In the event the Grantee does not submit invoices requesting all of the funds encumbered under this Grant Agreement, any remaining funds revert to the State. The State Water Board will mail a Notice of Project Completion letter to the Grantee stating that the Project file is closed, the final invoice is being processed for payment, and any remaining balance will be disencumbered and unavailable for further use under the Grant Agreement.

E. REPORTS

1. GRANT SUMMARY FORM. Grantee shall complete a one (1) page Grant Summary Form <http://www.waterboards.ca.gov/funding/docs/grantinfo/grantsum.doc> within three (3) months of the Agreement execution. A hard copy shall be submitted to the Grant Manager and an electronic copy to the Program Analyst for State Water Board website posting.
2. PROGRESS REPORT. Grantee shall submit monthly progress reports to the State Water Board's Grant Manager by the twentieth (20th) of the month.
 - a. The progress reports shall provide a brief description of the work performed, accomplishments during the month, milestones achieved, monitoring results (if applicable), and any problems encountered in the performance of the work under this Agreement. Grantee shall document all contractor activities and expenditures in progress reports.
 - b. The invoice should accompany the progress report. The invoice should reflect charges for the work completed during the reporting period covered by progress report. The invoice cannot be paid prior to submission of a progress report covering the invoice reporting period.
3. NRPI SURVEY FORM. At the completion of this Project, the Grantee shall complete and submit electronically a Natural Resource Project Inventory (NRPI) Project Survey Form found at <http://www.ice.ucdavis.edu/nrpi>. A hard copy shall be submitted to the Program Analyst prior to final payment.
4. DRAFT PROJECT REPORT. Prepare and submit to the Grant Manager a draft Project Report for review and comment that includes and addresses the following narrative sections and items. Additional requirements are listed in Exhibit D.
 - a. A summary of the Project, describing Project purpose, scope and goals, activities completed, techniques used and partners involved.
 - b. A report of all monitoring and management practices or management measures implemented, together with their corresponding locations. The report shall be in a format that enables the Grant Manager to find the physical location of each implemented practice or measure and/or monitoring event in a quick and efficient manner. Acceptable formats include, but are not limited to:

- Map of locations – The map of practices or measures implemented shall consist of dots placed on a USGS 7.5-minute quadrangle map at the implementation location. Lead lines shall be connected to a text box description of the practice or measure. The dots shall have a small enough diameter to enable the Grant Manager to locate the measure or practice within a 50-foot radius.
 - Project coding system – The Project coding system shall explain the coding used to describe each implemented practice or measure and include a reference to the corresponding GPS location(s).
- c. Describe Project performance, including benefits, successes and shortcomings, consistent with the PAEP. Enumerate specific quantifiable environmental changes and results of the Project. As appropriate, include 1) behavioral results such as the amount of management practices or measures implemented, 2) estimates or measurements of the amount of pollutants prevented from reaching surface or ground water, 3) documented changes in water quality based on monitoring, and 4) improved or protected beneficial uses.
- d. Identify lessons learned in carrying out the Project. Describe what worked and what did not work, and how similar efforts could be utilized within the Project area, as well as in other watersheds.
- e. Describe the extent of outreach that has been conducted and if there are plans to further promote the results of the Project to achieve additional implementation.
- f. Describe the Project's funding. Include the projected cost and actual cost of the Project, how much of the grant funds were spent, and how much funding was put into the Project from other sources. Identify funding sources that have been "leveraged" by the Project and plans for funding future activities.
- g. Identify planned or potential follow-up activities, such as any additional steps necessary to achieve the water quality objectives, Total Maximum Daily Loads (TMDL) or local watershed plans.
- h. Include appropriate photos and graphics.
- i. A list of items submitted as outlined in the Table of Items for Review.
- j. Any additional information that is deemed appropriate by the Project Director or Grant Manager.
5. FINAL PROJECT REPORT. Prepare a final Project Report that addresses, to the extent feasible, comments made by the Grant Manager on the draft final Project Report. Submit one (1) reproducible master, two (2) copies, and an electronic copy of the final.
6. The Grantee agrees to expeditiously provide, during work on the Project and throughout the term of this Agreement, such reports, data, information, and certifications that may be reasonably required by the State Water Board.
- F. PAYMENT OF PROJECT COSTS
- The Grantee agrees that it will provide for payment of its full share of Project costs and that all costs connected with the Project will be paid by the Grantee on a timely basis.
- G. AUDIT DISALLOWANCES
- The Grantee agrees it shall return any audit disallowances to the State Water Board.

M11

EXHIBIT C
GENERAL CONDITIONS – 2005-06 CONSOLIDATED GRANTS

1. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.
2. **APPROVAL:** The Grantee will not proceed with any work on the Project until authorized in writing by the State Water Board.
3. **ASSIGNMENT:** This grant is not assignable by the Grantee, either in whole or in part, without the consent of the State Water Board.
4. **AUDIT:** Grantee agrees that the awarding department, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for a possible audit for a minimum of thirty-six (36) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
5. **BONDING:** Where contractors are used, Grantee shall not authorize construction to begin until each such contractor has furnished a performance bond in favor of the Grantee in the following amounts: faithful performance (100%) of contract value; labor and materials (100%) of contract value. This requirement shall not apply to any contract for less than \$20,000.00.
6. **CALFED PROGRAM CONSISTENCY.** If this Project assists in meeting any of the CALFED Bay-Delta Program Goals, this Project shall be consistent with the CALFED Programmatic Record of Decision and must be implemented, to the maximum extent possible, through local and regional programs.
7. **CEQA/NEPA:**
 - a. No work that is subject to the California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) may proceed under this Agreement until documents that satisfy the CEQA/NEPA process are received by the Grant Manager and the State Water Board has given environmental clearance. No work that is subject to an Environmental Impact Report or a Mitigated Negative Declaration may proceed until and unless approved by the Chief of the State Water Board's Division of Financial Assistance (Division). Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required.
 - b. If this Project includes modification of a river or stream channel, it must fully mitigate environmental impacts resulting from the modification. The Grantee must provide documentation that the environmental impacts resulting from such modification will be fully mitigated considering all of the impacts of the modification and any mitigation, environmental enhancement, and environmental benefit resulting from the Project, and whether, on balance, any environmental enhancement or benefit equals or exceeds any negative environmental impacts of the Project.
8. **COMPLIANCE WITH LAW, REGULATIONS, ETC.:** The Grantee agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with all applicable federal and state laws, rules, guidelines, regulations, and requirements. Without limitation of the foregoing, the Grantee agrees that, to the extent applicable, the Grantee will comply with the provisions of the adopted environmental mitigation plan for the term of this Agreement, or the useful life of the Project, whichever is longer.
9. **COMPUTER SOFTWARE:** The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

10. **DAMAGES FOR BREACH AFFECTING TAX EXEMPT STATUS:** In the event that any breach of any of the provisions of this Agreement by the Grantee shall result in the loss of tax exempt status for any state bonds, or if such breach shall result in an obligation on the part of the State to reimburse the federal government by reason of any arbitrage profits, the Grantee shall immediately reimburse the state in an amount equal to any damages paid by or loss incurred by the state due to such breach.
11. **DATA MANAGEMENT.** This Project includes appropriate data management activities so that Project data can be incorporated into appropriate statewide data systems.
12. **DISPUTES:** Grantee shall continue with the responsibilities under this Agreement during any dispute. Any dispute arising under this Agreement which is not otherwise disposed of by agreement shall be decided by the Chief of the Division, or his or her authorized representative. The decision shall be reduced to writing and a copy thereof furnished to the Grantee and to the State Water Board's Executive Director. The decision of the Division shall be final and conclusive unless, within thirty (30) calendar days after mailing of the Division decision to the Grantee, the Grantee mails or otherwise furnishes a written appeal of the decision to the State Water Board's Executive Director. The decision of the State Water Board's Executive Director shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law.
13. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain separate Project accounts in accordance with generally accepted accounting principles.
14. **GOVERNING LAW:** This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **INCOME RESTRICTIONS:** The Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Agreement shall be paid by the Grantee to the State, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by the State under this Agreement.
16. **INDEPENDENT ACTOR:** The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers of employees or agents of the State Water Board.
17. **INSPECTION:** Throughout the life of the Project, the State Water Board shall have the right to inspect the Project area to ascertain compliance with this Agreement. Grantee acknowledges that the Project records and location are public records.
18. **NONDISCRIMINATION:** During the performance of this Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40) or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
19. **NO THIRD PARTY RIGHTS:** The parties to this grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this grant Agreement, or of any duty, covenant, obligation or undertaking established herein.

M/M

20. NOTICE:

- a. The Grantee shall notify the State Water Board prior to conducting construction, monitoring, demonstration, or other implementation activities such that State Water Board and/or Regional Water Board staff may observe and document such activities.
- b. The Grantee shall promptly notify the State Water Board of events or proposed changes that could affect the scope, budget, or work performed under this Agreement. The Grantee agrees that no substantial change in the scope of the Project will be undertaken until written notice of the proposed change has been provided to the State Water Board, and the State Water Board has given written approval for such change.
- c. The Grantee shall notify the State Water Board at least ten (10) working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by State Water Board's representatives.
- d. The Grantee shall promptly notify the State Water Board in writing of completion of work on the Project.
- e. The Grantee shall promptly notify the State Water Board in writing of any cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more and of any circumstance, combination of circumstances, or condition, which is expected to or does delay completion of construction for a period of ninety (90) days or more beyond the estimated date of completion of construction previously provided.

21. PERMITS, CONTRACTING, WAIVER, REMEDIES AND DEBARMENT: The Grantee shall procure all permits and licenses necessary to accomplish the work contemplated in this Agreement, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. Any contractors, outside associates, or consultants required by the Grantee in connection with the services covered by this Agreement shall be limited to such individuals or firms as were specifically identified and agreed to during negotiations for this Agreement, or as are specifically authorized by the State Water Board's Grant Manager during the performance of this Agreement. Any substitutions in, or additions to, such contractors, associates, or consultants, shall be subject to the prior written approval of the State Water Board's Grant Manager. Any waiver of rights with respect to a default or other matter arising under the Agreement at any time by either party shall not be considered a waiver of rights with respect to any other default or matter. Any rights and remedies of the State provided for in this Agreement are in addition to any other rights and remedies provided by law. The Grantee shall not contract with any party who is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension". The Grantee shall not contract with any individual or organization on USEPA's List of Violating Facilities. (40 CFR, Part 31.35, Gov. Code 4477) www.epis.gov. The Grantee certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or Grantee;
- b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- d. Have not within a three (3)-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

M/M

22. **PREVAILING WAGES AND LABOR COMPLIANCE:** If applicable, the Grantee agrees to be bound by all the provisions of State Labor Code regarding prevailing wages. If applicable, the Grantee shall monitor all agreements subject to reimbursement from this Agreement to assure that the prevailing wage provisions of State Labor Code are being met. The Grantee certifies that it has a labor compliance program in place pursuant to section 1771.8 of the Labor Code, where applicable.
23. **PROFESSIONALS:** The Grantee agrees that only licensed professionals will be used to perform services under this Agreement where such services are called for.
24. **RECORDS:** Without limitation of the requirement to maintain Project accounts in accordance with generally accepted accounting principles, the Grantee agrees to:
- Establish an official file for the Project which shall adequately document all significant actions relative to the Project;
 - Establish separate accounts which will adequately and accurately depict all amounts received and expended on this Project, including all grant funds received under this Agreement;
 - Establish separate accounts which will adequately depict all income received which is attributable to the Project, especially including any income attributable to grant funds disbursed under this Agreement;
 - Establish an accounting system which will adequately depict final total costs of the Project, including both direct and indirect costs;
 - Establish such accounts and maintain such records as may be necessary for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations; and
 - If Force Account is used by the Grantee for any phase of the Project, establish an account that documents all employee hours, and associated tasks charged to the Project per employee.
25. **RELATED LITIGATION:** Under no circumstances may a Grantee use funds from any disbursement under this Grant Agreement to pay costs associated with any litigation the Grantee pursues against the State Water Board or any Regional Water Board. Regardless of the outcome of any such litigation, and notwithstanding any conflicting language in this Agreement, the Grantee agrees to complete the Project funded by this Agreement or to repay all of the grant funds plus interest.
- This section shall apply only where the Grantee is involved in litigation against the State Water Board and/or a Regional Water Board. This section shall terminate four (4) years after project completion. This section shall not apply where the subject of the litigation has no connection to the grant. This section shall not apply to disputes arising regarding performance under the grant agreement.
26. **RIGHTS IN DATA:** The Grantee agrees that all ambient water quality monitoring data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work submitted under Exhibit A in the performance of this Agreement shall be public domain. The Grantee may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement, subject to appropriate acknowledgement of credit to the State Water Board for financial support. The Grantee shall not utilize the materials submitted to the State Water Board (except data) for any profit-making venture or sell or grant rights to a third party who intends to do so. The State Water Board has the right to use submitted data for all governmental purposes.
27. **STATE REVIEWS AND INDEMNIFICATION:** The parties agree that review or approval of Project applications, documents, permits, plans and specifications or other Project information by the State Water Board is for administrative purposes only and does not relieve the Grantee of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the Project. The parties agree to defend, indemnify and hold one another harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising from the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages

are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, agents or employees.

28. **SUPPLEMENTAL ENVIRONMENTAL PROJECTS:** Grant Funds shall not be used for supplemental environmental projects required by Regional Boards.
29. **STATE WATER BOARD ACTION, COSTS, AND ATTORNEY FEES:** The Grantee agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the State Water Board as a result of breach of this Agreement by the Grantee, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Agreement by the State Water Board shall not preclude the State Water Board from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Agreement, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.
31. **TERMINATION:** Either party has the right to terminate this Grant Agreement by giving at least thirty (30) days notice. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the State Water Board an amount equal to the amount of grant funds disbursed to the Grantee and unspent prior to the effective date of such termination. In the event of such termination, Grantee shall turn over to the State Water Board all work product developed, purchased, or otherwise obtained using funds from this Grant Agreement. Such work product shall include but not be limited to materials, data, equipment, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced or purchased by the Grantee in the performance of this Agreement. Such work product shall be delivered to the State Water Board in usable fashion with the intent that future grantees may be able to carry on the work begun by this Grantee. In the alternative, the Grantee may choose to immediately repay all Project funds to the State Water Board. If the agreement is terminated by either party at a point in which Grantee is owed compensation by State Water Board, upon receipt of a final invoice and appropriate documentation State Water Board agrees to pay Grantee the amount owed.
30. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with and complete the Project in an expeditious manner.
32. **TRAVEL AND PER DIEM:** Any reimbursement for necessary travel and per diem shall be at Grantee's usual rates (State Contracting Manual Section 3.18). No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State Water Board.
31. **UNENFORCEABLE PROVISION:** In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement shall continue to have full force and effect and shall not be affected thereby.
32. **URBAN WATER MANAGEMENT PLAN.** The Grantee certifies that this Project complies with the Urban Water Management Planning Act (Water Code § 10610 et seq.). This shall constitute a condition precedent to this Grant Agreement.
33. **VENUE:** The State Water Board and the Grantee hereby agree that any action arising out of this Agreement shall be filed and maintained in the Superior Court in and for the County of Sacramento, California, or in the United States District Court in and for the Eastern District of California. The Grantee hereby waives any existing sovereign immunity for the purposes of this Agreement.
34. **WATERSHED MANAGEMENT PLAN CONSISTENCY.** Grantee certifies that any watershed protection activity undertaken as part of this Project will be consistent with the applicable, adopted, local watershed management plans and the applicable Water Quality Control Plan (Basin Plan) adopted by a Regional Water Board, where such plans exist. Any such activity occurring in the San Gabriel and Los Angeles watersheds shall be consistent with the San Gabriel and Los Angeles River Watershed and Open Space Plan as adopted by the San Gabriel and Lower Los Angeles Rivers and Mountain Conservancy and the Santa Monica Mountains Conservancy.

MMA

35. **WITHHOLDING OF GRANT DISBURSEMENTS:** The State Water Board may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.
36. **PUBLIC RECORDS ACT NOTIFICATION:** Upon receiving a request from any member of the public regarding information related to this Agreement, the State Water Board will notify the Grantee of such a request within three (3) working days. This notification provision does not apply to requests made by auditors, the Legislature, or other state or federal officials.

EXHIBIT D
SPECIAL CONDITIONS – 2005-06 CONSOLIDATED GRANTS

Proposition 50 Coastal Nonpoint Source Pollution Control Program [WC § 79543]

1. The Grantee certifies that this is a Project to restore and protect the water quality and environment of coastal waters, estuaries, bays and nearshore waters, or groundwater.
2. The Grantee certifies that, for the purposes of this Project, it has not received, will not apply for, and hereby withdraws outstanding applications for money through the Prop 13 Coastal Nonpoint Source Program (Water Code § 79148 et seq.) or the Prop 13 Nonpoint Source Pollution Control Program (Water Code § 79110 et seq.).
3. The Grantee certifies that it is an entity defined under section 79148.8 of the California Water Code.
4. The Grantee certifies that this Project is intended to produce sustained, long-term water quality or environmental restoration or protection benefits for a period of twenty (20) years.
5. The Grantee certifies that this Project is intended to address the causes of degradation, rather than symptoms.
6. The Grantee in good faith represents that this Project is consistent with water quality and resource protection plans prepared, implemented, or adopted by the State Water Board, the applicable Regional Water Board, and the California Coastal Commission.
7. Notwithstanding Exhibit A, the Grantee shall submit a monitoring and reporting plan that will do all of the following:
 - a. Identify the nonpoint source or sources of pollution to be prevented or reduced by Project
 - b. Describe the baseline water quality or quality of the environment to be addressed
 - c. Describe the manner that Project will prevent or reduce pollution and demonstrate desired environmental results.
8. Notwithstanding Exhibit A, upon completion of the Project, the Grantee shall submit a report to the State Water Board that summarizes the completed activities and indicates whether the purposes of the Project have been met. The report shall include information collected by the recipient in accordance with the Project monitoring and reporting plan, including a determination of the effectiveness of the Project in preventing or reducing pollution.
9. The Grantee shall inform the State Water Board with regard to necessary public agency approvals, entitlements, and permits that may be necessary to implement the Project. The Grantee shall certify to the State Water Board, at the appropriate time, that it has obtained those approvals, entitlements, and permits.
10. The Grantee certifies that if a recovery plan for coho, steelhead, or other threatened or endangered aquatic species exists, this Project is consistent with such a plan and, if feasible, implements actions in such a plan.
11. Where applicable, the Grantee shall include a monitoring component as part of this Project that allows the integration of data into statewide monitoring effort, including but not limited to the State Water Board's surface water ambient monitoring program (SWAMP) or groundwater ambient monitoring and assessment (GAMA) program.
12. The Grantee certifies that it is providing a match in the amount of at least 15% (for projects less than \$1,000,000) or 20% (for projects from \$1,000,000 to \$5,000,000) of the capital costs to be spent on this Project, as such costs are defined under Section 32025 of the Public Resources Code.

13. The Grantee certifies that in no event will it complete this Project later than March of 2010. It acknowledges that this condition is a material condition of this grant agreement.
14. The Grantee certifies that its Project area falls under the jurisdiction of the California Coastal Commission and/or the San Francisco Bay Conservation and Development Commission.
15. The Grantee certifies that this Project addresses at least one of the State Water Board or Regional Water Boards' priorities as identified in Appendix G to the 2005-06 Consolidated Grants Program Guidelines.

ATTACHMENT 2 - SUBAWARD SCOPE OF WORK

UCSD Agreement 0001

000549

Subrecipient agrees to perform the following scope of work in compliance with all requirements of the Subaward:

Background: This project will construct Low Flow diversion facilities on Camino Del Oro, Torrey Pines Road & Charlotte Street (paper street), and 1624 Torrey Pines Road. This project will divert low flow from the storm drain system into the sewer system for treatment, to protect the water quality at the beaches and the La Jolla Ecological Reserve.

<u>Location</u>	<u>Beach Area</u>	<u>Description</u>
1. Camino Del Oro	La Jolla	Gravity
2. Torrey Pines Road & Charlotte Street (Paper)	La Jolla	Pump
3. 1624 Torrey Pines Road	La Jolla	Pump

Phase 1: Conceptual Design/Final/ Design/Environmental/Plan/Specifications

1.1 Visit all sites, take photographs, log visible above ground features

And make detailed notes of the surroundings.

1.2 Kickoff meeting with City Engineering and operation/maintenance

staff to discuss each of the three sites, formulate preliminary design criteria, outline requirements for City provided survey information and establish a schedule for a City provided survey information, preliminary design submittals, City review time requirements and overall project schedule with adherence to City's provided schedule and critical path.

1.3 After receipt of City provided survey in MicroStation or AutoCAD, prepare site plans for each of three sites.

1.4 Obtain underground utility information and plot onto the site plans.

1.5 Develop preliminary design concepts for each of three sites.

1.6 Meet with City engineering, operations and maintenance staff to review and discuss with City the preliminary design. Agree upon the final design concept for each of the three sites.

1.7 Upon results of Task 1.6, proceed with final design of each of the three sites.

1.8 Preparation of construction plans. Anticipated construction plans are as follows:

- Title Sheet
- Notes, abbreviations, etc.
- Site plans and details

ATTACHMENT 2 - SUBAWARD SCOPE OF WORK
UCSD Agreement 0001

000050

- Miscellaneous details
- Electrical/Telemetry
- Structural details

- 1.9 Preparation of construction specifications and contract documents.
- 1.10 Conduct all needed design studies such as geotechnical, pothole, etc.
- 1.11 Prepare environmental documentation and studies that are needed for CEQA and NEPA.
- 1.12 Coordinate with City, stakeholders, other governmental agencies and UC Regents- University of California San Diego (UCSD) for the execution of this project.
- 1.13 Submittals of 30/75/100 percent complete stages and attending plan check coordination meetings.
- 1.14 Prepare Construction cost estimate at 30/75/100 percent completions stages.
- 1.15 Prepare and submit final signed and sealed construction plans, specifications, contract documents and construction cost estimate.
- 1.16 Allowance of miscellaneous meetings, phone conversations, fax transmittals, email communications, preparation of meeting agendas, minutes, overall project execution and coordination with City's Stormwater Pollution Prevention division staff.
- 1.17 Allowance of time to convert AutoCad files to MicroStation.
- 1.18 Allowance for time to coordinate with SDG&E for a Service Order for each of three sites plus coordinate with AT&T for telephone services.
- 1.19 Attend Community meetings and stakeholder meetings on as-needed basis, and prepare brochures, displays and handouts to assist in educating the La Jolla Community about the project. Assist in communicating with Native Americans Tribal communities.

Phase 2: Bidding/Construction Support Services

- 2.1 Answer questions during bidding.
- 2.2 Attend Pre-bid meeting (if needed)
- 2.3 Attend Pre-Construction meeting.
- 2.4 Respond to Contractor's Request for Information (not to exceed 30 each)
- 2.5 Review shop drawings (not to exceed 30 each)

ATTACHMENT 2 - SUBAWARD SCOPE OF WORK

UCSD Agreement 0001

000351

2.6 Meetings with City's construction and Project Manager or upon City's request
(not to exceed 10 each)

2.7 Construction Contract Administration and Project Management

- Perform regular onsite observations
- Conduct and submit photo monitoring at the site pre-, during, and post- construction
- Conduct final inspection and compile inspection documentation

2.8 Incorporate redlines from Contractor and produce As-builts.

Phase 3: Post-Construction Monitoring and Effectiveness Assessment

3.1 Conduct post-construction monitoring

3.2 Prepare Effectiveness Assessment

000853

FOR PURPOSES OF THIS ATTACHMENT, "SUBRECIPIENT" IS CITY OF SAN DIEGO
AND "UNIVERSITY" IS THE REGENTS OF THE UNIVERSITY OF CALIFORNIA -
UNIVERSITY OF CALIFORNIA SAN DIEGO.

1. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:

1.1 Separate Accounting of Grant Disbursement and Interest Records: Subrecipient shall account for the money disbursed pursuant to the Subaward referenced in Agreement No. 0001 ("Agreement") separately from all other Subrecipient funds. Subrecipient shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. Subrecipient shall keep complete and accurate records of all disbursements, and interest earned on expenditures of such funds. Subrecipient shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by University at any and all reasonable times.

1.2 Fiscal Management Systems and Accounting Standards: The Subrecipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or the Subaward.

1.3 Remittance of Unexpended Funds: Subrecipient, within a period of sixty (60) calendar days from the final disbursement from University to Subrecipient of grant funds under the Subaward, shall remit to University any unexpended funds that were disbursed to Subrecipient under the Subaward and were not needed to pay eligible project costs.

2. ACKNOWLEDGEMENT OF CREDIT: Subrecipient shall include appropriate acknowledgement of credit to the University and to all cost-sharing partners for their support when promoting the Project, as that term is

ATTACHMENT 3 - SUBAWARD STANDARD CONDITIONS
UCSD AGREEMENT # 0001

000854

described in Item 2 of the Subaward, or using any data and/or information developed under this Subaward.

3. AMENDMENT: No amendment or variation of the terms of this Subaward shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Subaward is binding on any of the parties.

4. AMERICANS WITH DISABILITIES ACT: By signing the Subaward, Subrecipient assures University that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA that apply to government contracting and employment discrimination.

5. AUDITS: Subrecipient agrees that the University, the State Water Resources Control Board (the "State"), the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Subaward. The Subrecipient agrees to maintain such records for a possible audit for a minimum of thirty six (36) years after final payment, unless a longer period of records retention is stipulated. With reasonable prior notice of any audit from the University the Subrecipient agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. This clause shall be flowed down to any subcontractors related to the performance of this Subaward. The cost of a planned audit shall be borne by the University. If a planned audit results in a material finding, the University may determine that a special audit is required. The reasonable cost to the University of a special audit will be borne by the Subrecipient.

6. BUDGET CONTINGENCY: If the Budget Act of the current year and/or any subsequent years covered under this Subaward does not appropriate sufficient funds for the La Jolla Shores Area of Special Biological Significance Dry Weather Flow and Pollution Control Program ("Program"), this Subaward shall be of no force and effect. This provision shall be construed as a condition precedent to

000855

the obligation of the University to make any payments under this Subaward. In this event, the University shall have no liability to pay any funds whatsoever to Subrecipient or to furnish any other considerations under this Subaward and Subrecipient shall not be obligated to perform any provisions of this Subaward. Nothing in this Subaward shall be construed to provide the Subrecipient with a right of priority for payment over any other Subrecipient. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Program, the University shall have the option to either cancel this Subaward with no liability occurring to the University, or offer a Subaward amendment to Subrecipient to reflect the reduced amount.

7. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a) The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

8. COMPETITIVE BIDDING AND PROCUREMENTS: Subrecipient shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Subrecipient's contracts with other entities for acquisition of goods and services and construction of public works with funds provided by University under this Subaward. This only applies to any associations that were not previously disclosed in the City's proposal and that exceed \$25,000 in value.

000356

9. COMPUTER SOFTWARE: The Subrecipient certifies that it has appropriate systems and controls in place to ensure that funds received under the Subaward will not be used for the acquisition, operation or maintenance of computer software in violation of copyright laws.

10. DAMAGES FOR BREACH AFFECTING TAX EXEMPT STATUS: In the event that any breach of any of the provisions of this Subaward by the Subrecipient shall result in the loss of tax exempt status for any state bonds, or if such breach shall result in an obligation on the part of the State or the University to reimburse the federal government by reason of any arbitrage profits, the Subrecipient shall immediately reimburse the University in an amount equal to any damages paid by or loss incurred by the State or the University due to such breach.

11. DELIVERY OF INFORMATION, REPORTS, AND DATA: The Subrecipient agrees to expeditiously provide, throughout the term of this Subaward, such reports, data, information, and certifications as may be reasonably required by the University.

12. DISBURSEMENTS: Following the review of each invoice, University will disburse to Subrecipient the amount approved, subject to the availability of funds through normal University processes. Notwithstanding any other provision of this Subaward, no disbursement shall be required at any time or in any manner which is in violation of, or in conflict with, federal or state laws, rules, or regulations, or which may require any rebates to the federal government, or any loss of tax-free status on state bonds, pursuant to any federal statute or regulation. All money disbursed pursuant to this Subaward shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.

13. DRUG-FREE WORKPLACE CERTIFICATION:

Certification of Compliance: By signing this Subaward, Subrecipient, its contractors or subcontractors, hereby certify, under penalty of perjury under the laws of the State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and have or will provide a drug-free workplace by taking the following actions:

000357

- a) Publish a statement notifying employees, contractors, and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors, or subcontractors for violations, as required by Government Code Section 8355(a).
- b) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(b) to inform employees, contractors, or subcontractors about all of the following:
 1. The dangers of drug abuse in the workplace,
 2. Subrecipient's policy of maintaining a drug-free workplace,
 3. Any available counseling, rehabilitation, and employee assistance programs, and
 4. Penalties that may be imposed upon employees, contractors, and subcontractors for drug abuse violations.
- c) Provide as required by Government Code Sections 8355(c), that every employee, contractor, and/or subcontractor who works under this Subaward:
 1. Will receive a copy of Subrecipient's drug-free policy statement, and
 2. Will agree to abide by terms of Subrecipient's condition of employment, contract or subcontract.

14. GOVERNING LAW: This Subaward is governed by and shall be interpreted in accordance with the laws of the State of California.

15. INCOME RESTRICTIONS: The Subrecipient agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Subrecipient under this Subaward shall be paid by the Subrecipient to the University, to the extent that they are properly allocable to costs for which the Subrecipient has been reimbursed by the University under this Subaward.

16. INDEPENDENT CAPACITY: Subrecipient, and the agents and employees of Subrecipient, if any, in the performance of the Subaward, shall act in an independent capacity and not as officers, employees, or agents of the University.

000358

17. INSPECTIONS: University shall have the right to inspect the work being performed at any and all reasonable times during the term of the Subaward. This right shall extend to any subagreements, and Subrecipient shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Subaward with University. Subrecipient acknowledges that the Project work site will be reportable under the Public Records Act. University shall have the right to inspect the Subrecipient's office at any and all reasonable times after completion of the Project to ensure compliance with the terms and conditions of this Subaward. During regular office hours, University shall have the right to inspect and to make copies of any books, records, or reports of the Subrecipient relating to this Subaward. Subrecipient shall maintain and shall make available at all times for such inspection accurate records of its costs, disbursements, and receipts with respect to its activities under this Subaward. Failure or refusal by Subrecipient to comply with this provision shall be considered a breach of this Subaward, and University may withhold disbursements to Subrecipient or take any other action it deems necessary to protect its interests.

18. NONDISCRIMINATION: During the performance of this Subaward, Subrecipient and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age (over 40), marital status, or denial of family care leave, medical-care leave, or pregnancy-disability leave. Subrecipient and contractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. For the purposes of this paragraph, unlawful discrimination or harassment occurs when: (1) it is shown by clear and convincing evidence that workplace discrimination or harassment occurred; and (2) despite such clear and convincing evidence being available to City management, the City failed to follow its adopted procedures regarding such workplace discrimination or harassment.

000059

19. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS: Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing its obligations under this Subaward. Subrecipient shall comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) and other applicable federal, state and local laws, rules, and regulations, guidelines, and requirements prior to disbursement of funds under this Subaward.

Without limiting the foregoing, Subrecipient shall keep informed of and take all measures necessary to ensure compliance with California Labor Code requirements, including but not limited to Section 1720 et seq. of the California Labor Code regarding public works.

20. REMEDIES, COSTS, AND ATTORNEY FEES: The Subrecipient agrees that any remedy provided in this Subaward is in addition to and not in derogation of any other legal or equitable remedy available to the University as a result of breach of this Subaward by the Subrecipient, whether such breach occurs before or after completion of the Project, and exercise of any remedy provided by this Subaward by the University shall not preclude the University from pursuing any legal remedy or right which would otherwise be available. In the event of litigation between the parties hereto arising from this Subaward, it is agreed that the prevailing party shall be entitled to such reasonable costs and/or attorney fees as may be ordered by the court entertaining such litigation.

21. RETENTION: Notwithstanding any other provision of this Subaward, the University may retain up to ten percent (10%) of the grant amount specified in this Subaward until completion of the work defined in the Subaward and acceptance of the work by the University.

22. RIGHTS IN DATA: The Subrecipient agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Subaward shall be in the public domain. The Subrecipient may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and

000860

developed under this Subaward, subject to appropriate acknowledgement of credit to the University and the State for financial support. The Subrecipient shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.

23. SEVERABILITY OF UNENFORCEABLE PROVISION: If any provision of this Subaward is held invalid or unenforceable by a court of final jurisdiction, all other provisions of this Subaward shall be construed to remain fully valid, enforceable, and binding on the parties.

24. UNIVERSITY REVIEWS AND INDEMNIFICATION: The parties agree that review or approval of Project applications, documents, permits, plans and specifications or other Project information by the University is for administrative purposes only and does not relieve the Subrecipient of its responsibility to properly plan, design, construct, operate, maintain, implement, or otherwise carry out the Project. The parties agree to defend, indemnify and hold one another harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising from the performance of this Subaward, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, agents or employees.

25. SUCCESSORS AND ASSIGNS: This Subaward and all of its provisions shall apply to and bind the successors and assigns of the parties. No assignment or transfer of this Subaward or any part thereof, rights hereunder, or interest herein by the Subrecipient shall be valid unless and until it is approved by University and made subject to such reasonable terms and conditions as University may impose.

26. SUPPLEMENTAL ENVIRONMENTAL PROJECTS: Funds provided under this Subaward shall not be used for supplemental environmental projects required by Regional Water Quality Control Boards.

000361

27. TERMINATION, IMMEDIATE REPAYMENT, INTEREST: Either party has the right to terminate this Subaward by giving at least thirty (30) days notice. In the event of such termination, the Subrecipient agrees, upon demand, to immediately repay to the University an amount equal to the amount of funds disbursed to the Subrecipient under this Subaward and unspent prior to the effective date of such termination. In the event of such termination, Subrecipient shall turn over to the University all work products developed, purchased, or otherwise obtained using funds from this Subaward. Such work product shall include but not be limited to materials, data, equipment, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced or purchased by the Subrecipient in the performance of this Subaward. Such work product shall be delivered to the University in usable fashion with the intent that future Subrecipients may be able to carry on the work begun by this Subrecipient. In the alternative, the Subrecipient may choose to immediately repay all Project funds to the University. If the Subaward is terminated by either party at a point in which Subrecipient is owed compensation by University, upon receipt of a final invoice and appropriate documentation University agrees to pay Subrecipient the amount owed.

28. TIMELINESS: Time is of the essence in this Subaward.

29. TRAVEL: Any reimbursement for necessary travel and per diem shall be at Subrecipient's usual rates. For the purpose of computing such expenses, Subrecipient's designated headquarters shall be San Diego City Hall. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the University.

30. VENUE: The venue for any suit or proceeding concerning this Subaward, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California.

31. WITHHOLDING OF GRANT DISBURSEMENTS: The University may withhold all or any portion of the grant funds provided for by this Subaward in the event that the

ATTACHMENT 3 - SUBAWARD STANDARD CONDITIONS
UCSD AGREEMENT # 0001

000062

Subrecipient has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Subaward; or the Subrecipient fails to maintain reasonable progress toward completion of performance of the Subaward.

159882.1

City of San Diego Sub-award Budget

Dry Weather Flow Diversions Construction*		Sub-award	Match
	Design, CEQA, BID, Contract Administration		\$ 68,950
	Construction	\$ 619,300	
	Construction Administration	\$ 80,700	\$ 50,750
	Effectiveness Assessment, Fees, Permits		\$ 55,300
Sub-total		\$ 700,000	\$ 175,000
Total		\$	875,000

*Line item amounts are subject to change; the subtotals of \$700,000 and \$175,000 are not.

000364

Subrecipient shall use the following outline as a template for Monthly Progress Reports unless otherwise subsequently agreed by both parties.

E.1 Executive Summary

- a. Provide a brief summary of the items contained in the body of the report.

E.2 Report Status

- a. Describe work performed during the month:
- b. Describe major accomplishments, such as:
 1. Items of work completed
 2. Milestones met
 3. Meetings held or attended
 4. Press release, etc.
- c. Discuss any issues or concerns that may affect the schedule or budget and include recommendations on how to correct the matter(s).
- d. Discuss activities planned for the next reporting period
 1. A description of work to be performed in the next period.
 2. Issues/concerns that may affect the schedule or budget in the future and how the matter(s) will be addressed.

E.3 Cost Information (with invoice submittal)

- a. Identify costs incurred during the month by Subrecipient and each subcontractor working on the Project. Include hours per item worked on during the month for above personnel. Include both grant funded and matching costs.
- b. Discuss how the actual budget is progressing in comparison to the budget in Attachment 4, Subaward Budget.
- c. Provide a revised budget, by work item, if changed from the latest budget in Attachment 4, Subaward Budget.

E.4 Schedule Information

- a. Provide a Project schedule showing progress in project deliverables.
- b. Discuss how the actual schedule is progressing in comparison to the projected schedule.
- c. Provide a revised schedule, by work item, if changed from the latest schedule.

E.5 Invoice Projections

- a. Submit Invoice Projection form.